

PATENT

KOYOP101USA

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Date: October 5, 2006

/Casey L. Martin/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Appellant(s): Jeasung Jay Yoo

Serial No: 10/772,610

Filing Date: February 5, 2006

Examiner: Alissa L. Hoey

Art Unit: 3765

Title: GARMENT AND DETACHABLE GARMENT LINER HAVING A SECURE
AND INTEGRATED POCKET SYSTEM

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

Appellants' representative submits this amended brief in response to the Final Action dated July 7, 2006, in connection with an appeal of the above-identified patent application. If any additional fees are due, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1063 [KOYOP101USA].

I. Real Party in Interest (37 C.F.R. §41.37(c)(1)(i))

The real party in interest in the present appeal is Right Brain Holdings, LLC, the assignee of the present application.

II. Related Appeals and Interferences (37 C.F.R. §41.37(c)(1)(ii))

Appellants, appellants' legal representative, and/or the assignee of the present application are not aware of any appeals or interferences which will directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims (37 C.F.R. §41.37(c)(1)(iii))

Claims 1-12 and 21-27 stand rejected by the Examiner. Claims 13-20 had been cancelled and claims 21-26 had been withdrawn. The rejection of claims 1-12 and 21-27 is being appealed.

IV. Status of Amendments (37 C.F.R. §41.37(c)(1)(iv))

The Examiner has entered the amendments submitted after the Final Office Action. (*See* Advisory Action dated August 15, 2006).

V. Summary of Claimed Subject Matter (37 C.F.R. §41.37(c)(1)(v))**A. Independent Claim 1**

Independent claim 1 and its corresponding dependent claims relate to a garment having an outer garment with an inner pocket. (*See e.g.* Fig. 2, elements 100, 106; Application at p. 7, lines 17-19.) A vest/liner is formed to selectively be worn in one of alone and coupled to the outer garment. The vest/liner having an access slit that facilitates access to the inner pocket of the outer garment when coupled to the outer garment. (*See e.g.* Fig. 5, elements 300, 306; Application at p. 10, lines 13-14.) Means are provided for fastening and at least partially coupling the vest/liner to the outer garment such that the inner pocket is accessible *via* the access slit when the vest/liner is

coupled to the outer garment. (*See e.g.* Fig. 5, element 308; Application at p. 10, lines 15-17.)

B. Independent Claim 27

Independent claim 27 and its corresponding dependent claim relate to a garment having an outer garment with an inner pocket. (*See e.g.* Fig. 2, elements 100, 106; Application at p. 7, lines 17-19.) A vest/liner having an access slit is provided that facilitates access to the inner pocket of the outer garment. The vest/liner can be at least partially coupled to the outer garment by means for fastening and the inner pocket is accessible *via* the access slit when the vest/liner is coupled to the outer garment. (*See e.g.* Fig. 5, elements 300, 306; Application at p. 10, lines 13-14.) A pocket map indicator provides an indication of the contents of the pocket. (*See e.g.* Fig. 19, elements 1400, 1402, 1404; Application at p. 17, lines 12-18.)

VI. Grounds of Rejection to be Reviewed on Appeal (37 C.F.R. §41.37(c)(1)(vi))

A. Whether claims 1, 2, 3, 5, 6 and 9 are anticipated under 35 U.S.C. §102(b) by Siegel (US 2,073,231).

B. Whether claims 4, 11, and 12 are unpatentable under 35 U.S.C. §103(a) over Siegel in view of Jordan (US 2002/0189000).

C. Whether claims 7, 8, and 10 are unpatentable under 35 U.S.C. §103(a) over Siegel in view of Anderson (US 3,055,133).

D. Whether claims 27 and 28 are unpatentable under 35 U.S.C. §103(a) over Siegel in view of Lenart (US 5,468,152).

VII. Argument (37 C.F.R. §41.37(c)(1)(vii))

A. Rejection of Claims 1, 2, 3, 5, 6 and 9 Under 35 U.S.C. §102(b)

Claims 1, 2, 3, 5, 6 and 9 stand rejected under 35 U.S.C. §102(b) as being anticipated by Siegel (US 2,073,231). It is respectfully submitted that this rejection should be reversed for at least the following reasons. Siegel does not disclose each and every limitation set forth in the subject claims.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that “*each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (quoting *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added).

The claimed invention recited in claim 1 relates to an *outer garment comprising an inner pocket and a vest/liner formed to selectively be worn in one of alone and coupled to the outer garment*. The vest/liner has *an access slit that facilitates access to the inner pocket of the outer garment* when coupled to the outer garment, and means are provided for fastening and at least partially coupling the vest/liner to the outer garment such that *the inner pocket is accessible via the access slit when the vest/liner is coupled to the outer garment*. Siegel does not disclose or suggest these novel features.

The Final Action reads Siegel’s slits 60 onto both the claimed “access slit” and “inner pocket.” Also, a passage of Siegel is cited from page 2, col. 2, line 44 to page 3, col. 1, line 3 that allegedly discloses that the claimed inner pocket is accessible via the access slit when the vest/liner is coupled to the outer garment. However, the claimed aspects are neither disclosed nor suggested in this passage or anywhere else in this cited document, and it is a misreading of the reference to interpret this passage in such manner. The cited passage discloses that the “pocket” of Siegel is designed so as to make the slit generally inaccessible when the user’s hand is inserted into the pocket. This teaching is found throughout the reference, *to wit*, “a pocket so designed that in inserting the hand normally into the pocket there will be no danger of having the hand go through the slit.” (See, page 2, col. 2, lines 56-59, emphasis added.) The cited passage also discloses that

“the slash pocket is provided with a lining lying between the two laminations 51 and 52 of the coat body.” A short portion of the coat body 54 extends into the pocket “providing a normally inaccessible slit 53.” The short portion 54 and the laminations 51, 52 are bypassed to open the “slit 53” and allow access to a sack coat pocket underneath the top coat. “Slits 60” are provided in the liner “so that the pocket construction of Figs. 15 and 16 may be of value even with the interlining in place,” *i.e.* so as to not obstruct access from the “slit 53” to the sack coat underneath. Access to the sack coat of Siegel can only be obtained by reaching through the pocket to the other side, *e.g.*, “... if it is desired to gain access to a sack coat pocket the hand is twisted rearwardly to open up the slit 53 as illustrated in Fig. 16.” It is therefore readily apparent from this disclosure that: 1) the pocket of Siegel is directly accessible only through the top coat, not through the liner, as presently claimed; and 2) the slit 60 in the liner is used to gain access to a sack coat from the top coat, not to a pocket in the top coat, as presently claimed. Therefore, there is simply no disclosure or suggestion of the claimed elements for which this reference is relied upon. The Final Action additionally cites page 1, col. 1, lines 47-54 of Siegel. However, this passage simply states that Siegel’s design seeks to “improve the pocket construction of the outer coat and permit access to a sack coat pocket through the outer coat pocket with or without the lining in place” and “to simplify the construction of the lining forming garment and particularly the collar portion thereof and the fastener device concealing means.” In view of the above arguments, it is therefore clear that Siegel fails to disclose a *garment having a vest/liner with an access slit that facilitates access to the inner pocket of the outer garment when coupled to the outer garment* and a fastening arrangement such that *the inner pocket is accessible via the access slit when the vest/liner is coupled to the outer garment*.

In view of at least the foregoing arguments, it is readily apparent that Siegel does not disclose or suggest every aspect of the claimed subject matter. Accordingly, the rejection of independent claim 1 (and claims that depend there from) should be reversed.

B. Rejection of Claims 4, 11 and 12 Under 35 U.S.C. §103(a)

Claims 4, 11, and 12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Siegel in view of Jordan (US 2002/0189000). Reversal of this

rejection is requested for at least the following reasons. Claims 4, 11, and 12 depend from independent claim 1. As stated *supra*, Siegel does not disclose or suggest every limitation set forth in the subject independent claim. Jordan does not cure the aforementioned deficiencies of the primary reference. Reversal of this rejection is therefore respectfully requested.

C. Rejection of Claims 7, 8 and 10 Under 35 U.S.C. §103(a)

Claims 7, 8, and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Siegel in view of Anderson (US 3,055,133). Claims 7, 8, and 10 also depend from independent claim 1. As stated *supra*, Siegel does not disclose or suggest every limitation set forth in the subject independent claim, and Anderson does not cure the aforementioned deficiencies. Accordingly, this rejection should be reversed.

D. Rejection of Claims 27 and 28 Under 35 U.S.C. §103(a)

Claims 27 and 28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Siegel in view of Lenart (US 5,468,152). Independent claim 27 relates *to an outer garment comprising an inner pocket and a vest/liner having an access slit that facilitates access to the inner pocket of the outer garment, the vest/liner can be at least partially coupled to the outer garment by means for fastening and the inner pocket is accessible via the access slit when the vest/liner is coupled to the outer garment*, as also recited in independent claim 1. As stated *supra*, Siegel does not disclose or suggest every one of these limitations as set forth in the subject independent claim. Lenart does not cure the aforementioned deficiencies of Siegel. Therefore, this rejection should be reversed.

E. Conclusion

For at least the above reasons, the claims currently under consideration are believed to be patentable over the cited references. Accordingly, it is respectfully requested that the rejections of claims 1-12 and 21-27 be reversed.

A credit card payment form is filed concurrently herewith in connection with all fees due regarding this document. In the event any additional fees may be due and/or are not covered by the credit card, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1063 [KOYOP101USA].

Respectfully submitted,
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VIII. Claims Appendix (37 C.F.R. §41.37(c)(1)(viii))

1. A garment comprising:
an outer garment comprising an inner pocket; and,
a vest/liner formed to selectively be worn in one of alone and coupled to the outer garment, the vest/liner having an access slit that facilitates access to the inner pocket of the outer garment when coupled to the outer garment,
means for fastening and at least partially coupling the vest/liner to the outer garment such that the inner pocket is accessible *via* the access slit when the vest/liner is coupled to the outer garment.
2. The garment of claim 1, the inner pocket including means for securing that facilitate secure storage of a personal item.
3. The garment of claim 1, the means for fastening comprising at least one of a zipper, a flexible hook and loop fastener system, a snap, a button and a hook-and-eye.
4. The garment of claim 1, wherein the inner pocket is further accessible from an outer surface of the outer garment *via* a concealed zipper.
5. The garment of claim 1, wherein the inner pocket is further accessible from an outer surface of the outer garment *via* a semi-conceal slit.
6. The garment of claim 1, the inner pocket comprising material impervious to blades.
7. The garment of claim 1, the inner pocket comprising a waterproof material.
8. The garment of claim 1, the inner pocket comprising an anti-magnetic material that insulates magnetically-sensitive items from magnetic fields.

9. The garment of claim 1, the inner pocket comprising a heat sensitive material.
10. The garment of claim 1, the inner pocket comprising a transparent material for enabling viewing of at least a portion of pocket contents.
11. The garment of claim 1, further comprising a plurality of inner pockets located symmetrically about a longitudinal axis at about the center of the outer garment.
12. The garment of claim 1, further having seven inner pockets.
21. A garment comprising:
 - an outer garment comprising a pocket formed in a garment sleeve, for retaining an instrument; and
 - an opening that facilitates access to the pocket of the outer garment.
22. The garment of claim 21, the pocket comprises:
 - a window area for viewing at least a portion of the instrument; and
 - a flap, hingedly coupled to the garment sleeve, for selectively revealing at least a portion of the instrument through the opening.
23. The garment of claim 22, the opening comprises at least one of a hole through the garment sleeve and a window comprising at least one of a transparent material and a mesh.
24. The garment of claim 21, the pocket comprises a garment cuff for retaining a wrist instrument.
25. The garment of claim 24, the garment cuff comprises a wrist instrument channel sewn into a cuff of the outer garment.

26. The garment of claim 21, the pocket comprising an external pocket, located on an inner forearm of the garment sleeve, so that the instrument may be brought to a wearer's face by bending an arm at an elbow.

27. A garment comprising:
an outer garment comprising an inner pocket; and,
a vest/liner having an access slit that facilitates access to the inner pocket of the outer garment, the vest/liner can be at least partially coupled to the outer garment by means for fastening and the inner pocket is accessible *via* the access slit when the vest/liner is coupled to the outer garment; and
a pocket map indicator that provides an indication of the contents of the pocket.

28. The garment of claim 27, the pocket map indicator comprises at least one of a color-coded map, an alphanumeric character map, and a graphical indicator map.

IX. Evidence Appendix (37 C.F.R. §41.37(c)(1)(ix))

None.

X. Related Proceedings Appendix (37 C.F.R. §41.37(c)(1)(x))

None.